

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

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Rasheen Capers, #137327,)	
)	
Petitioner,)	Case No. 2:10-cv-0320-RMG
)	
v.)	ORDER
)	
A J Padula,)	
)	
Respondent.)	
_____)	

Petitioner Rasheen Capers ("Petitioner"), who is proceeding pro se, filed the instant action pursuant to 28 U.S.C. § 2254. This matter is before the Court upon the Report and Recommendation ("Report") of United States Magistrate Judge Carr recommending that the instant action be dismissed with prejudice for lack of prosecution. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court, and that recommendation has no presumptive weight. The responsibility of making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636 (b)(1).


The Magistrate Judge filed the Report on August 5, 2010, but Petitioner failed to file any objections to the Report. In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir.

1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that the action is **DISMISSED** *with prejudice* for lack of prosecution.

To the extent that Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

AND IT IS SO ORDERED.



The Honorable Richard Mark Gergel
United States District Judge

Charleston, South Carolina
September 1, 2010

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.